
LOAN AGREEMENT

Dated as of October 1, 2009

between

LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT

as Issuer

and

BELLARMINE UNIVERSITY INCORPORATED

(and Assignment of Issuer's Interest
to U.S. BANK NATIONAL ASSOCIATION, as Trustee)

relating to

\$18,500,000

Louisville/Jefferson County Metro Government
College Improvement Revenue Bonds, Series 2009
(Bellarmine University Project)

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE 1. DEFINITIONS AND REPRESENTATIONS	2
Section 1.1. <u>Definitions.</u> :	2
Section 1.2. <u>Representations and Warranties by University.</u> :	6
Section 1.3. <u>Accounting Terms and Determinations.</u>	9
ARTICLE 2. AGREEMENT TO LEND; USE OF PROJECT BOND PROCEEDS.....	10
Section 2.1. <u>Agreement to Lend, Use of Project Bond Proceeds.</u>	10
Section 2.2. <u>[Reserved]</u>	10
Section 2.3. <u>Reliance by Bondholders.</u>	10
ARTICLE 3. NEW MONEY PROJECTS.....	10
Section 3.1. <u>Construction.</u>	10
Section 3.2. <u>Completion.</u>	10
ARTICLE 4. GENERAL OBLIGATION OF UNIVERSITY	11
Section 4.1. <u>General Obligation of University; Pledge of Gross Revenues.</u>	11
Section 4.2. <u>Assignment to Trustee.</u>	11
ARTICLE 5. PAYMENTS	11
Section 5.1. <u>Payment of Debt Service.</u>	11
Section 5.2. <u>Optional Prepayment.</u>	12
Section 5.3. <u>Notice of Prepayment.</u>	12
Section 5.4. <u>Additional Payments.</u>	12
Section 5.5. <u>No Abatement or Setoff.</u>	13
Section 5.6. <u>Termination.</u>	14
ARTICLE 6. INSURANCE, CASUALTY AND CONDEMNATION	14
Section 6.1. <u>Insurance to be Maintained.</u> :	14
Section 6.2. <u>Notice of Property Loss.</u>	15
Section 6.3. <u>Proceeds of Property Damage Insurance; Condemnation.</u>	15
Section 6.4. <u>Disposition of Liability Insurance Proceeds.</u>	16
ARTICLE 7.[RESERVED]	16
ARTICLE 8. ADDITIONAL COVENANTS OF UNIVERSITY	16
Section 8.1. <u>Insurance Consultant.</u>	16
Section 8.2. <u>University Books and Records; Audits.</u>	16
Section 8.3. <u>Operation and Maintenance.</u>	17
Section 8.4. <u>Compliance with Laws.</u>	17
Section 8.5. <u>Preservation of Status, Licensure, and Corporate Status; Merger and Consolidation.</u>	17

Section 8.6.	<u>Tax Exemption of University and Project Bonds.</u>	18
Section 8.7.	<u>Inspection.</u>	19
Section 8.8.	<u>Additional Information.</u>	19
Section 8.9.	<u>Certain Notices to Be Given.</u>	19
Section 8.10.	<u>Project Bonds Not to Become Arbitrage Bonds.</u>	19
Section 8.11.	<u>Environmental Matters.</u>	19
Section 8.12.	<u>Accreditation.</u>	20
Section 8.13.	<u>Payment of Taxes and Other Claims.</u>	20
Section 8.14.	<u>Change in Name or Corporate Structure; Sale of Assets.</u>	20
Section 8.15.	<u>Rate Covenant.</u>	20
Section 8.16.	<u>Additional Indebtedness.</u>	20
Section 8.17.	<u>Negative Pledge.</u>	21
ARTICLE 9.	EVENTS OF DEFAULT AND REMEDIES	21
Section 9.1.	<u>Events of Default.</u>	21
Section 9.2.	<u>[Reserved].</u>	22
Section 9.3.	<u>Appointment of Receiver.</u>	22
Section 9.4.	<u>Additional Remedies.</u>	22
Section 9.5.	<u>Waivers.</u>	22
Section 9.6.	<u>Remedies Not Exclusive.</u>	22
Section 9.7.	<u>Expenses.</u>	22
ARTICLE 10.	MISCELLANEOUS	23
Section 10.1.	<u>Consent to Indenture.</u>	23
Section 10.2.	<u>Payment by Issuer of University Obligations.</u>	23
Section 10.3.	<u>Severability.</u>	23
Section 10.4.	<u>No Personal Recourse, Indemnification of Issuer and Trustee.</u>	24
Section 10.5.	<u>Reference to Statutes or Regulations.</u>	25
Section 10.6.	<u>Governing Law.</u>	25
Section 10.7.	<u>Supplements and Amendments to Loan Agreement.</u>	25
Section 10.8.	<u>Notices.</u>	25
Section 10.9.	<u>Counterparts.</u>	26
Section 10.10.	<u>Headings.</u>	26
Section 10.11.	<u>Payment on Non-Business Days.</u>	26
Section 10.12.	<u>Further Assurance and Corrective Instruments.</u>	27
Section 10.13.	<u>Binding Effect; Time of the Essence.</u>	27
Section 10.14.	<u>Entire Agreement.</u>	27

THIS LOAN AGREEMENT (the “Loan Agreement”), dated as of October 1, 2009, is by and between LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT (the “Issuer”), a consolidated local government of the Commonwealth of Kentucky, and BELLARMINE UNIVERSITY INCORPORATED (the “University”), a Kentucky nonprofit corporation.

Recitals

A. The Issuer is authorized by the Industrial Buildings for Cities and Counties Act, as amended, Kentucky Revised Statutes (“KRS”) 103.200 to 103.285 (the “Act”), to issue industrial building revenue bonds and to loan the proceeds thereof to any person to finance the cost of any “industrial building” (as defined in the Act), including specifically land, buildings, improvements, equipment, machinery, and other facilities suitable for any nonprofit educational institution in any manner related to or in furtherance of the educational purposes of such institution, including but not limited to classroom, laboratory, housing, administrative, physical educational and medical research and treatment facilities, in order to accomplish the public purposes of promoting the economic development of the Commonwealth of Kentucky (the “State”), relieving conditions of unemployment, and encouraging the increase of industry therein.

B. The Act further authorizes the Issuer to issue its bonds under the provisions of the Act, to create any necessary debt service reserve fund, and to pay the cost of any improvements or additions to the project financed from the proceeds of the bonds, and of any premiums, expenses, and commissions required to be paid in connection therewith, which bonds shall be payable from the revenues out of which the bonds were payable.

C. The University, formerly named Bellarmine College, is an institution of higher education and has applied to the Issuer for the issuance of industrial building revenue bonds of the Issuer and the loan of the proceeds thereof to the University to (i) finance the costs of the construction of phase three of a four phase resident hall consisting of 38,086 square feet to include the addition of a parking lot consisting of 118 parking spaces, the renovation of existing space and construction of new office and classroom space consisting of approximately 33,526 square feet to include installation of a geothermal system and the addition of other energy efficient systems to Kesters, the renovation of Café Ogle, and the addition and construction of field parking phase two consisting of an additional 158 parking spaces, located at 2001 Newburg Road, Louisville, Kentucky, for use by the University in furtherance of its nonprofit educational purposes and for other miscellaneous capital expenditures (such capital improvements being hereinafter collectively referred to as the “New Money Projects,” and the New Money Projects being hereinafter collectively referred to as the “Project”); and (ii) pay costs of issuance of the bonds.

D. The Issuer has determined to issue \$18,500,000 aggregate principal amount of its College Improvement Revenue Bonds, Series 2009 (Bellarmine University Project) (the “Project Bonds”) pursuant to the Indenture hereinafter mentioned and loan the proceeds thereof to the University pursuant to this Loan Agreement to finance the costs of the Project.

E. The Project Bonds are secured, in part, by an assignment to the Trustee of this Loan Agreement and the payments due thereunder (except Unassigned Rights) and by all the moneys and securities in the funds established under the Indenture to pay the Costs of the Project.

NOW, THEREFORE, the parties hereto, intending to be legally bound hereby and in consideration of the mutual covenants hereinafter contained, do hereby agree as follows:

ARTICLE 1. DEFINITIONS AND REPRESENTATIONS

Section 1.1. Definitions. Capitalized terms not otherwise defined herein shall have the meanings set forth in the Indenture. In this Loan Agreement and any agreement supplemental hereto (except as otherwise expressly provided or unless the context otherwise requires) terms used as defined terms in the recitals hereto shall have the same meanings throughout this Loan Agreement, and in addition the following terms shall have the meanings specified below:

“Annual Debt Service” with reference to a specified period, shall mean:

- a. interest payable on long-term indebtedness during the period, excluding (i) interest funded from the proceeds thereof and (ii) interest on long-term indebtedness to be redeemed during such period through any sinking fund account which would otherwise accrue after the redemption date;
- b. amounts required to be paid into any mandatory sinking fund account for long-term indebtedness during the period;
- c. amounts required to pay the principal of long-term indebtedness maturing during the period and not to be redeemed prior to maturity through any mandatory sinking fund account; and
- d. in the case of long-term indebtedness in the form of a lease capitalized under GAAP, the lease rentals payable during the period;

provided, however, that (i) in the case of debt which does not bear a fixed rate of interest through maturity, interest shall be calculated, in any projection of Annual Debt Service for a future period, (A) if the University has entered into an Interest Rate Agreement relating to such indebtedness, at the per annum fixed rate of interest to be paid by the University under such Interest Rate Agreement, (B) if the University has not entered into an Interest Rate Agreement, at a rate equal to 120% of (1) the average Securities Industry & Financial Markets Association (“SIFMA”) Municipal Swap Index for the preceding 24 months, if such debt is tax-exempt debt, and (2) the average rate for one-month LIBOR for the preceding 24 months, if such debt is taxable debt, (ii) in the case of Balloon Debt, such debt shall be assumed to amortize on a level debt service basis over the actual remaining term to maturity unless a binding commitment to refinance such debt upon maturity has been provided by a financial institution rated at least “Aa” from Moody’s or “AA” from S&P, in which case such debt will be assumed to mature in accordance with the terms of such binding commitment, (iii) interest payable shall be reduced by the amount of any interest subsidy which a Federal, state or local government is irrevocably committed to pay for the period in question, and (iv) the Annual Debt Service on any long-term indebtedness in the form of a guaranty of the indebtedness of others shall be deemed equal to (A) 25% of the annual principal and interest requirements on the indebtedness being guaranteed

during each Fiscal Year if the guaranteed entity had Net Revenues Available for Debt Service at least equal to 150% of the annual debt service on its long-term debt in its latest fiscal year, (B) 50% of the annual principal and interest requirements on the indebtedness being guaranteed during each Fiscal Year if the guaranteed entity had Net Revenues Available for Debt Service at least equal to 125% but less than 150% of the annual debt service on its long-term debt in its latest fiscal year, (C) 75% of the annual principal and interest requirements on the indebtedness being guaranteed during each Fiscal Year if the guaranteed entity had Net Revenues Available for Debt Service below 125% of the annual debt service on its long-term debt in its latest fiscal year, and (D) 100% of the annual principal and interest requirements on the indebtedness being guaranteed during each Fiscal Year if the Borrower has made a payment on the guaranteed entity's debt during either of the last two Fiscal Years.

“Appraiser” shall mean an appraiser who is a member of the Appraisal Institute.

“Assignment” shall mean the Assignment of even date herewith by the Issuer of all its right, title, and interest in and to this Loan Agreement, except for Unassigned Rights, to the Trustee.

“Balloon Debt” shall mean debt 25% or more of the principal amount of which comes or may come due in any one Fiscal Year by maturity, mandatory sinking fund redemption or optional or mandatory tender by the holder thereof.

“Certified Public Accountant” shall mean a Person appointed by the University Board, actively engaged in the business of public accounting and duly licensed as a certified public accountant, and who is independent and not an employee of the University and who is reasonably satisfactory to the Trustee.

“Environmental Law” shall have the meaning set forth in Section 8.11 hereof.

“Exceptions to Guaranty” shall mean that certain Exceptions to Non-Recourse Guaranty, dated December 1, 2007, between the University and the Credit Provider (as such term is defined in the Guaranty) under which the University has agreed to guaranty the security of all obligations of Highlands Court, Inc. under the Security Instrument, Mortgage Note and Reimbursement Agreement (all as such terms are defined in the Guaranty) on the terms and conditions set forth in the Exceptions to Non-Recourse Guaranty.

“Fiscal Year” shall mean the fiscal year of the University, which shall be the period commencing on the first day of June of each year and ending on the last day of May of the following year, unless the Trustee is notified by the University of a change in such fiscal year.

“Generally Accepted Accounting Principles” shall mean those accounting principles applicable in the preparation of financial statements of nonprofit institutions of higher education located in the United States, as promulgated by the Financial Accounting Standards Board or such other body recognized as authoritative by the American Institute of Certified Public Accountants or any successor body.

“Gross Revenues” shall mean, for any period, in the case of the University, (i) unrestricted and temporarily restricted operating revenues, plus (ii) revenues from unrestricted and temporarily restricted non-operating activities, as determined in accordance with Generally Accepted Accounting Principles; provided, however, that no determination thereof shall take into account (a) any gain or loss resulting from the early extinguishment of indebtedness, (b) the equity in the earnings or losses from any investments in Affiliates, or (c) permanently restricted gifts, grants, bequests, or donations.

“Guaranty” shall mean that certain Limited Guaranty, dated December 1, 2007, between the University and the Credit Provider (as such term is defined in the Guaranty) under which the University has agreed to guaranty the security of all obligations of Highlands Court, Inc. under the Security Instrument, Mortgage Note and Reimbursement Agreement (all as such terms are defined in the Guaranty) on the terms and conditions set forth in the Guaranty.

“Indenture” shall mean the Trust Indenture of even date herewith between the Issuer and the Trustee pursuant to which the Project Bonds are being issued, as originally executed, or if amended or supplemented as therein provided, as so amended or supplemented.

“Insurance Consultant” shall mean a Person who shall be appointed by the University, qualified to survey risks and to recommend insurance coverage for facilities and services and organizations engaged in like operations and having a favorable reputation for skill and experience in such surveys and such recommendations, and who may be a broker or agent with whom the University transacts business, and who is satisfactory to the Trustee in its reasonable discretion.

“Interest Rate Agreement” means an agreement pursuant to which the University agrees with a third party to pay or deliver to such party specified amounts in respect of a mutually agreed upon notional amount in exchange for such party’s agreement to pay or deliver to the University specified amounts in respect of such notional amount, all at such rates and over such periods of time as may be mutually agreed upon; provided, however, that no such agreement shall entail any exchange of principal or any assumption of liability for the payment of the principal of or interest on any particular indebtedness of the University or such third party, as the case may be.

“Loan” shall have the meaning set forth in Section 2.1 hereof.

“Maximum Annual Debt Service” shall mean the greatest amount of Annual Debt Service payable in the current or any subsequent Fiscal Year.

“Net Revenues Available for Debt Service” shall mean unrestricted revenues minus unrestricted expenses, exclusive of unrealized gains and losses on investments, and adding back in depreciation and interest on long-term debt.

“Permitted Encumbrances” shall mean and include the following:

1. Any lien or encumbrance on the Gross Revenues securing Project Bonds issued under the Indenture or this Loan Agreement or securing other indebtedness

permitted to be incurred and secured by a lien or encumbrance as set forth in the Indenture or this Loan Agreement;

2. Any lien or encumbrance securing indebtedness that is subordinate to the Project Bonds;

3. Any lien or encumbrance arising by reason of good faith deposits by the University in connection with leases of real estate, bids or contracts (other than contracts for the payment of money), deposits by the University to secure public or statutory obligations, or to secure, or in lieu of, surety, stay or appeal bonds, and deposits as security for the payment of taxes or assessments or other similar charges;

4. Any lien or encumbrance arising by reason of deposits with, or the giving of any form of security to, any governmental agency or any body created or approved by law or governmental regulation for any purpose as required by law or regulation (A) as a condition to the transaction of any business or the exercise of any privilege or license, or (B) to enable the University to maintain self-insurance or to participate in any funds established to cover any insurance risks or in connection with worker's compensation, unemployment insurance, or pension or profit sharing plans or other social security plans or programs, or to share in the privileges or benefits required for companies participating in such arrangements;

5. Any judgment lien against the University, so long as the finality of such judgment is being contested and execution thereon is stayed and (A) provision for payment of the judgment has been made in accordance with applicable law or by the deposit of cash or investments with a commercial bank or trust company or (B) adequate insurance coverage is available to satisfy such judgment;

6. Any mechanic's, laborer's, materialman's, supplier's or vendor's lien or right in respect thereof if payment is not yet due under the contract in question or if such lien is being contested in good faith;

7. Any zoning laws and similar restrictions which are not violated by the property affected thereby;

8. Any right, title and interest of the state, municipalities and the public in and to tunnels, bridges and passageways over, under or upon a public way;

9. Any lien or encumbrance on property received by the University through gifts, grants or bequests, such lien or encumbrance being due to restrictions on such gifts, grants or bequests or property or income thereon; and

10. Any lien or encumbrance for taxes, special assessments, or other governmental charges not then delinquent or being contested in good faith.

11. Any lien or encumbrance arising under the Guaranty or Exceptions to Guaranty.

“Person” shall mean and include an individual, a corporation, a general or limited partnership, a limited liability company, an association, a joint stock company, a trust, any other unincorporated organization, a governmental body or any political subdivision, a municipality, a municipal authority, or any other entity.

“Project Facilities” shall mean the property of the University to be acquired, constructed, or installed as part of the New Money Projects.

“State” means the Commonwealth of Kentucky.

“University” shall mean Bellarmine University Incorporated, formerly named Bellarmine College, a Kentucky nonprofit corporation.

“University Agreements” means collectively this Loan Agreement and the Tax Compliance Agreement.

“Unassigned Rights” shall mean the right of the Issuer to be paid Administrative Expenses; the right of the Issuer to receive indemnification from the University pursuant to this Loan Agreement; the right of the Issuer to receive notices under the Loan Agreement, the Indenture, or any related document; and the obligations under the Loan Agreement to be performed only by the Issuer, which rights are not assigned to the Trustee pursuant to the Indenture.

The terms “redeemed” and “redemption” and “prepay” and “prepayment” are used interchangeably herein and in the Indenture.

Section 1.2. Representations and Warranties by University. The University makes the following representations and warranties as of the date hereof:

A. The University is a nonprofit corporation duly incorporated under the laws of the State, validly existing and duly authorized to conduct its business in the State, and is a “nonprofit educational institution” within the meaning of the Act. The University is organized and operated exclusively for educational and charitable purposes and not for pecuniary profit, and no part of the net earnings of the University inures to the benefit of any person, private stockholder, or individual.

B. The University is duly authorized and licensed to operate its facilities under the laws, rulings, regulations, and ordinances of the State and the departments, agencies, and political subdivisions thereof and under all other applicable provisions of law. The University has obtained all approvals of the State and of federal, regional, and local governmental bodies which are necessary for the construction, installation, and operation of the Project Facilities or which are otherwise necessary to permit the Project to be financed or refinanced with the proceeds of the Project Bonds pursuant to the provisions of the Act. The University’s property is in compliance in all material respects with applicable federal, state, and local zoning, subdivision, environmental, land use and other laws, rules, regulations, codes, and ordinances, is in good condition and repair, and is not subject to any mortgages, security interests, liens or encumbrances except for Permitted Encumbrances (as defined in this Agreement), any such matters described in the audited financial statements of the University for its Fiscal Year

ended May 31, 2008, utility easements, restrictions and covenants that do not materially interfere with the use of any such property for the purposes for which it is being used by the University or impair the value thereof, real estate taxes and assessments not yet due and payable, and zoning ordinances.

C. The University has full corporate power under the laws of the State and all other applicable provisions of law and its articles of incorporation and bylaws to execute and deliver and to perform its obligations under this Loan Agreement and the other University Agreements and all corporate action on its part necessary for the valid execution and delivery of this Loan Agreement and the other University Agreements has been duly and effectively taken; and, assuming that the Loan Agreement and the other University Agreements have been duly authorized, executed and delivered by the other parties thereto, this Loan Agreement and the other University Agreements are and will be the legal, valid and binding obligations of the University, enforceable in accordance with their respective terms, subject to the qualification that the enforcement of such obligations may be limited by laws relating to bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance or other similar laws affecting creditors' rights generally and by the availability of equitable remedies or the application of principles of equitable subordination. The execution and delivery by the University of this Loan Agreement and the other University Agreements and the approval by the University of the Indenture and compliance with the provisions thereof will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, the articles of incorporation or bylaws of the University or any existing law, court or administrative regulation, decree, order, agreement, indenture, mortgage, lease or instrument by which the University or its property is or may be bound.

D. There does not exist any corporate restriction or any agreement or instrument to which the University is now a party or by which it or any of its property is bound, which would prevent the execution and delivery of this Loan Agreement or the other University Agreements or the performance thereof or, except for the Permitted Encumbrances, result in the creation or imposition of any lien, charge, or encumbrance of any nature upon the University Premises or any part thereof or interest therein, or permit any person to seek injunctive relief as to the execution, delivery, consummation or fulfillment of the terms of any of the foregoing, or with respect to which the execution, delivery or performance hereof or of any other University Agreement would constitute a breach, default or violation.

E. Except as previously disclosed in the Bond Documents, no litigation, proceedings or investigations are pending or, to the knowledge of the University, threatened against the University seeking to restrain, enjoin or in any way limit the execution and delivery of this Loan Agreement or the other University Agreements by the University, or which would in any manner challenge or adversely affect the corporate existence or powers of the University to enter into and carry out the transactions described in or contemplated by or the execution, delivery, validity or performance by the University of the terms and provisions of this Loan Agreement or the other University Agreements.

F. None of the proceeds of the Project Bonds will be used, directly or indirectly, to pay, to reimburse the University for the payment of, or to refund indebtedness the proceeds of which were used to pay, for the acquisition, construction, renovation, remodeling or

equipping of any of the expenses of any institution, place or building, or any portion thereof, used or to be used for sectarian instruction or study or as a place for devotional activities or religious worship or in connection with any part of the program of a school or department of divinity for any religious denomination or the training of ministers, priests, rabbis or similar persons in the field of religion.

G. The Project constitutes an “industrial building” within the meaning of the Act. The University currently intends to operate the Project as an “industrial building” within the meaning of the Act from the date hereof to the expiration or earlier termination of this Loan Agreement as provided herein.

H. All audited and unaudited financial statements which the University has heretofore furnished to Issuer or the Purchaser (as defined in the Bond Purchase Agreement) accurately present the financial condition of University as of the respective dates thereof and the results of its operations and cash flows for the periods then ended and were prepared in accordance with generally accepted accounting principles. Since the date of the most recent such audited financial statements, there has been no material adverse change in the business, properties or condition (financial or otherwise) of the University.

I. All financial and other information provided to the Purchaser by or on behalf of the University (whether in verbal or written form) in connection with University’s request for the Loan is true and correct in all material respects and, as to projections, valuations or pro forma financial statements, present a good faith opinion as to such projections, valuations and pro forma statements and results, and the University has not made to the Purchaser any untrue statement of a material fact or omitted to state a material fact necessary to make any statement made to the Purchaser with respect to this Loan Agreement not misleading.

J. The University has paid or caused to be paid to the proper authorities when due all federal, state and local taxes required to be withheld by it. The University has filed all federal, state and local tax returns that are required to be filed, and has paid or caused to be paid to the respective taxing authorities all taxes as shown on those returns or on any assessment received by it to the extent those taxes have become due.

K. To the best of the University’s knowledge, no elected official, officer or other official of the Issuer has any financial interest whatsoever in the University or in the transactions contemplated by this Loan Agreement.

L. To the best of its knowledge, no Default or Event of Default exists.

M. The only trade name used by the University is Bellarmine University.

N. The University has good and marketable fee simple title to all of the University Premises, free and clear of all liens, claims and encumbrances whatsoever, except Permitted Encumbrances (as defined in this Agreement).

All representations of the University contained herein or in any certificate or other instrument delivered by the University pursuant to any of the University Agreements or the Indenture, or in connection with the transactions contemplated thereby, shall survive the

execution and delivery thereof and the issuance, sale and delivery of the Project Bonds as representations of facts existing as of the date of execution and delivery of the instrument containing such representation.

Section 1.3. Accounting Terms and Determinations. Unless otherwise specified, all accounting terms herein or in the Indenture have the meanings assigned to them, and all computations required under any of the University Agreements or under the Indenture shall be made, in accordance with Generally Accepted Accounting Principles.

ARTICLE 2.
AGREEMENT TO LEND; USE OF PROJECT BOND PROCEEDS

Section 2.1. Agreement to Lend, Use of Project Bond Proceeds. The Issuer agrees to make, solely from the proceeds of the Project Bonds, and the University agrees to accept, a loan of \$18,500,000 (the “Loan”) to pay Costs of the Project. The University’s obligation to repay the Loan shall be as specified in Section 5.1 hereof, together with interest due on the Loan at the interest rate for the Project Bonds as set forth in the Indenture and all other amounts due hereunder. The University acknowledges receipt of the proceeds of the Loan and directs the proceeds to be deposited and disbursed in the manner provided in the Indenture and in accordance with the provisions hereof and thereof and the making of all payments required hereunder as and when the same shall become due.

At the request of the University, and for the purposes and upon fulfillment of the conditions specified in the Indenture, the Issuer may provide for the issuance, sale and delivery of Additional Bonds and loan the proceeds from the sale thereof to the University.

Section 2.2. [Reserved].

Section 2.3. Reliance by Bondholders. This Loan Agreement is executed in part to induce the purchase by others of Project Bonds and, accordingly, all representations, warranties, covenants and agreements on the part of the University and the Issuer, as set forth in this Loan Agreement and the other University Agreements, are hereby declared to be for the benefit of the holders from time to time of the Project Bonds.

ARTICLE 3.
NEW MONEY PROJECTS

Section 3.1. Construction. The University shall use its best efforts to acquire and construct the improvements and to acquire and install the equipment comprising the Project Facilities with reasonable due diligence and in accordance with all construction contracts and plans and specifications therefor, and all applicable laws and regulations, free and clear of all liens, charges and encumbrances except for Permitted Encumbrances and any other rights in favor of the Trustee and the holders of the Project Bonds. Upon the request of the Trustee, the University shall promptly deliver to the Trustee true, correct and complete copies of all contracts and subcontracts for the construction and/or installation of all or any part of the New Money Projects, including all exhibits, schedules and attachments, and all amendments thereto and change orders, and copies of all plans and specifications therefor, including all modifications and amendments thereto. The University shall pay all such costs of construction and installation to assure that, at all times, the amount in the Construction Fund under the Indenture will be sufficient to complete such construction and installation in the manner provided above.

Section 3.2. Completion. The completion date of the New Money Projects shall be evidenced by delivery to the Trustee of an Officers’ Certificate of the University stating that, except for any Costs of the New Money Projects not then due and payable, or the liability for which the University is disputing or contesting, (i) the New Money Projects have been

substantially completed and, where applicable, such completion is, to the best knowledge of such officer, in accordance with the plans and specifications therefor and with all applicable laws, ordinances, rules and regulations, free and clear of any and all liens, claims and encumbrances except as expressly permitted hereby or by the Indenture; and (ii) the Project Facilities are satisfactory to the University and are suitable for use in furtherance of the nonprofit educational purposes of the University. Notwithstanding the foregoing, any such Officers' Certificate may state that it is given without prejudice to any rights against third parties which exist at the date of such certificate or which may subsequently come into being. At the time a certificate as provided in this Section 3.2 is delivered to the Trustee, moneys remaining in the Construction Fund, including any earnings resulting from the investment of such moneys, shall be transferred to the Bond Fund to be used to pay principal and interest on the Project Bonds as the same become due and payable.

ARTICLE 4. GENERAL OBLIGATION OF UNIVERSITY

Section 4.1. General Obligation of University; Pledge of Gross Revenues. This Loan Agreement is a general obligation of the University. To secure the payment and performance of its obligations hereunder, the University hereby pledges and grants to the Trustee, as assignee of the Issuer hereunder, a first priority lien on and security interest in the Gross Revenues of the University.

In the event that the Gross Revenues of the University shall be insufficient at any time to fully satisfy the obligations of the University hereunder, such Gross Revenues shall be allocated to the University's obligations hereunder on a pro rata basis in accordance with the amount then due and payable (taking into consideration whether the maturity of the Series 2009 Bonds has been and continues to be accelerated).

Section 4.2. Assignment to Trustee. The Issuer, immediately following execution and delivery hereof, shall assign this Loan Agreement and all amounts payable hereunder, except Unassigned Rights, to the Trustee, in trust, to be held and applied pursuant to the provisions of the Indenture. The University (i) consents to such assignment and accepts notice thereof with the same legal effect as though such notice was embodied in a separate instrument, separately executed after execution of such assignment; (ii) agrees to pay directly to the Trustee all amounts payable hereunder, except payments as a result of Unassigned Rights, without any defense, setoff or counterclaim arising out of any default on the part of the Issuer under this Loan Agreement or any transaction between the University and the Issuer; (iii) agrees that the Trustee may exercise all rights granted the Issuer hereunder which can be performed by the Trustee; and (iv) agrees to be bound by the obligations of the University set forth in the Indenture.

ARTICLE 5. PAYMENTS

Section 5.1. Payment of Debt Service. The University hereby agrees to make loan payments directly to the Trustee so as to provide for the repayment of the Loan at such times and in such amounts so as to provide for payment of the principal or Redemption Price of

and interest on the Bonds Outstanding under the Indenture at least ten (10) days prior to the date when due whether upon a scheduled date for the payment of principal or interest, at maturity or by redemption of the Project Bonds.

In addition to any credits resulting from payment or prepayment and notwithstanding any provision contained in this Loan Agreement or in the Indenture to the contrary, the principal amount of Project Bonds delivered to the Trustee with instructions to cancel such Project Bonds, or purchased by the Trustee and canceled, shall be credited (at 100% of the principal amount of the Project Bonds so delivered) against the obligation of the University to pay the corresponding principal (including sinking fund installment payments corresponding to mandatory amounts to be deposited into the appropriate sinking fund for such Project Bonds) in the order provided in the Indenture.

Section 5.2. Optional Prepayment. The University shall be permitted to optionally prepay the Loan hereunder so as to pay, prepay or provide for payment or prepayment of the Project Bonds, to the extent and in the manner permitted by the Indenture. The Issuer, at the direction of the University, shall pay, redeem or provide for payment or redemption of the Project Bonds in accordance with the Indenture. Any prepayment shall provide for a corresponding discharge of principal of the Project Bonds.

Section 5.3. Notice of Prepayment. The University shall give or cause to be given to the Issuer and the Trustee not less than 45 days (or such lesser number of days as is agreed to by the Trustee) prior written notice of any optional prepayment of the Loan, which notice shall designate the date of prepayment and the amount thereof and direct the redemption of Project Bonds or the portion thereof and in the amounts corresponding to the amount to be prepaid. Such notice may be withdrawn by the University at any time prior to the redemption date.

Section 5.4. Additional Payments. The University agrees to pay the following items to the following persons as additional payments due under this Loan Agreement:

A. To the Trustee or any other paying agent, for the benefit of the Trustee or such paying agent, when due, all reasonable fees of the Trustee and any other paying agent for services rendered under the Indenture and all advances, reasonable attorneys' fees and other expenses reasonably and necessarily made or incurred by any of them in connection with their services under the Indenture;

B. To the Issuer, prior to the delivery of the Project Bonds, its application fee for the issuance of the Project Bonds in the amount of \$1,500 and to the Jefferson County Attorney its counsel fees in connection with the authorization and issuance of the Project Bonds in the amount of \$7,000. In addition, the University shall pay to the Issuer, when due, the Issuer's Administrative Expenses, if any, incurred from time to time in connection with the Project Bonds, as provided in the Indenture; and

C. To the Trustee, the amount of all advances made by it under the provisions of the Indenture or hereof or of any University Agreement, with interest thereon at the Trustee's

announced prime rate per annum then in effect from the date of each such advance until paid in full; and

D. To the Trustee, all other amounts payable pursuant hereto or to any University Agreement.

The provisions of this Section shall remain in full force and effect notwithstanding the full payment of all obligations hereunder or the termination hereof for any reason.

Section 5.5. No Abatement or Setoff. The University shall pay, or cause to be paid, all sums required hereunder without suspension or abatement of any nature, notwithstanding that all or any part of the University Premises shall have been wholly or partially destroyed, damaged or condemned and shall not have been repaired, replaced or rebuilt. So long as any of the Project Bonds remain Outstanding, the obligation of the University to make payments hereunder shall be absolute and unconditional and shall not be suspended, abated, reduced, abrogated, waived, diminished or otherwise modified in any manner or to any extent whatsoever, regardless of any rights of setoff, recoupment or counterclaim that the University might otherwise have against the Issuer or the Trustee or any other party or parties and regardless of any contingency, natural catastrophe, event or cause whatsoever and notwithstanding any circumstances or occurrence that may arise or take place after the date hereof, including but without limiting the generality of the foregoing:

- A. any damage to or destruction of any part or all of the University Premises;
- B. the taking or damaging of any part or all of the University Premises, by any public authority or agency in the exercise of the power of or in the nature of eminent domain or by way of a conveyance in lieu of such exercise or otherwise;
- C. any assignment, novation, merger, consolidation, transfer of assets, leasing or other similar transaction of or affecting the University, whether with or without the approval of the Issuer or the Trustee;
- D. the termination of this Loan Agreement pursuant to the provisions hereof;
- E. any failure of the Issuer or the Trustee to perform or observe any agreement or covenant, whether express or implied, or any duty, liability or obligation arising out of or connected with this Loan Agreement, the other University Agreements, the Indenture or the Project Bonds;
- F. any acts or circumstances that may constitute an eviction or constructive eviction;
- G. failure of consideration, failure of title or commercial frustration;
- H. any change in the tax laws or other laws of the United States or of any state or other governmental authority;

I. any determination that the interest payable on the Project Bonds is included in the gross income of the holders for federal income tax purposes; and/or

J. delinquency of any occupant of the University Premises or other Person in the payment of any fees, rentals or other charges owed to the University, whether or not any occupant receives either partial or total reimbursement as a credit against such payment.

Except to the extent provided in and subject to this Section 5.5, nothing contained herein shall be construed to prevent or restrict the University from asserting any rights which it may have under this Loan Agreement, any of the other University Agreements, or any provision of law against the Issuer or the Trustee or any other person.

Section 5.6. Termination. The University's obligations under the Loan Agreement shall terminate after payment in full of the Loan and all other amounts due under this Loan Agreement; provided, however, that the covenants and obligations provided in Sections 1.2, 5.4, 10.2 and 10.4 hereof shall survive the termination of the Loan Agreement and the payment in full of the amounts due hereunder. Upon termination of this Loan Agreement the Trustee, as assignee of the Issuer hereunder, shall pay over to the University any moneys then remaining in any Funds created under the Indenture, which are not required under the Indenture. Notwithstanding any provision of this Section to the contrary, the Loan Agreement shall remain in effect until the payment and retirement of all Outstanding Bonds in accordance with their terms and the terms of the Indenture or the defeasance and discharge of the Indenture in accordance with Article 14 thereof.

ARTICLE 6. INSURANCE, CASUALTY AND CONDEMNATION

Section 6.1. Insurance to be Maintained. The University covenants to provide and maintain, continuously unless otherwise herein provided, insurance against risks of such types and in such amounts as are customarily insured against by similarly situated nonprofit educational institutions in the State, paying when due all premiums in respect to such insurance, including without limitation, to the extent available:

A. public liability insurance against liability for bodily injury, including death, and for damage to the University's property, including loss of its use; and

B. workers' compensation insurance with respect to the University's employees.

Any requirement for insurance herein provided (with the exception of any insurance on the University's physical plant) may be met by a self-insurance plan approved and reviewed at least every three (3) years by the Insurance Consultant and approved by any Regulatory Body having jurisdiction thereof.

All policies of insurance shall be issued by responsible insurance companies with Best's Ratings of "A" or better, qualified to do business in the State and qualified under the laws of the State to assume risks covered by such policy or policies and shall be non-assessable.

In the event that any insurance required by this Section 6.1 is commercially unavailable, based on the advice of the Insurance Consultant, the University may arrange such substitute coverage as is recommended by the Insurance Consultant; provided, however, that no Event of Default shall occur if substitute coverage is unavailable and the University makes a continuing good faith effort to obtain such insurance or such substitute coverage, including self-insurance, as is recommended by the Insurance Consultant. If the insurance becomes commercially available after substitute insurance has been obtained, the University shall obtain, or cause to be obtained, such insurance upon expiration of such substitute insurance or as otherwise recommended by the Insurance Consultant.

Anything to the contrary herein notwithstanding, the University shall hold the Issuer harmless and without liability for any claim whatsoever arising as the result, directly or indirectly, of insufficient insurance under this Section 6.1.

Section 6.2. Notice of Property Loss. Immediately after the occurrence of loss or damage covered by insurance required under Section 6.1, or after notice of condemnation has been received, or the occurrence of any other injury or damage to any property or asset of the University if the reasonably estimated replacement cost thereof then exceeds \$1,000,000, the University shall promptly notify the Issuer and the Trustee.

Section 6.3. Proceeds of Property Damage Insurance; Condemnation.

A. If the University Premises shall be wholly or partially destroyed or damaged by fire or other casualty covered by insurance or shall be wholly or partially condemned or taken, the University may at its option retain an Appraiser who shall promptly determine and deliver to the University a certificate setting forth the fair market value of the remaining undamaged University Premises, taking into account the taking or destruction, as applicable, and if no Event of Default or event which with notice or lapse of time would be an Event of Default has occurred, and the appraisal indicates that the value of the University Premises is equal to at least 150% of the then outstanding long-term debt of the University, the University may apply the proceeds of condemnation or damage to any lawful purpose of the University including restoration of the University Premises; provided, however, in the event any Project Bonds remain outstanding, the proceeds of such condemnation or damage award must be used for lawful purposes of the University that, in the opinion of Bond Counsel will not adversely affect the exemption of the interest on the Project Bonds from federal income tax. If, however, the value of the remaining undamaged University Premises as set forth in the report is less than 150% of then outstanding long-term debt of the University or the University does not engage an Appraiser, the University shall within 120 days of the event determine whether repair, reconstruction or replacement of the affected portion of the University Premises is practicable and desirable and shall, promptly thereafter, notify the Trustee whether or not the University will undertake such repair, reconstruction or replacement. If the University determines that repair, reconstruction or replacement is practicable and desirable, the University shall promptly commence such repair, reconstruction, and replacement, shall complete the same with reasonable due diligence, and shall apply all available condemnation awards and insurance proceeds to such project.

B. In any instance where insurance proceeds or condemnation awards are to be applied to the repair, replacement or reconstruction of the University Premises, the proceeds shall be applied, deposited or disbursed as hereinabove set forth.

Section 6.4. Disposition of Liability Insurance Proceeds. The proceeds of all public liability and automobile liability insurance and all workers' compensation insurance required by Section 6.1 shall be applied by the University to the payment of any judgment, settlement or liability incurred for risks covered by such insurance. Any excess over the amount required for such purpose shall be retained by the University.

ARTICLE 7.
[RESERVED]

ARTICLE 8.
ADDITIONAL COVENANTS OF UNIVERSITY

Section 8.1. Insurance Consultant. Upon any material change in insurance coverage, but in no case no less frequently than every three (3) years, the University shall cause an independent Insurance Consultant to review the risks to which the University is exposed and the adequacy of the University's insurance coverage therefor, and the University shall file a copy of such report with the Trustee promptly upon receipt thereof.

Section 8.2. University Books and Records; Audits. The University covenants to keep accurate records and books of account with respect to its revenues and expenditures in accordance with Generally Accepted Accounting Principles and, within one hundred fifty (150) days after the end of each Fiscal Year, to have made an audit of its financial statements by a Certified Public Accountant. As soon as practicable, but in no event later than one hundred fifty (150) days after the end of each fiscal year, the Authorized University Representative shall file, or cause to be filed, with the Trustee, audited financial statements of the University, together with a certificate signed by the chief executive officer or the financial officer of the University to the effect that such officer is not aware of any Event of Default hereunder or under the Indenture.

The University further covenants that at any time during the term of this Loan Agreement it shall make available to the Trustee upon written request therefor such internal operating and financial reports as have been prepared, on a monthly basis or otherwise, by the University and if, applicable, any report thereon by its Certified Public Accountant.

The University shall make available to the Certified Public Accountant conducting the University's annual audit all records of the University which such Certified Public Accountant requires to complete its audit.

The Trustee shall have no duty to review or analyze such financial statements and shall hold such financial statements solely as a repository for the benefit of the bondholders; the Trustee shall not be deemed to have notice of any information contained therein or Event of Default which may be disclosed therein in any manner.

Section 8.3. Operation and Maintenance. The University covenants to maintain the University Premises in good repair and operating condition, to operate the same continuously in an economical and efficient manner and to make all repairs, renewals, replacements and improvements in order to maintain adequate service and operations for a nonprofit institution of higher education of similar size and reputation. The provisions of this Section shall not apply, however, to real estate or equipment to the extent that in the opinion of a proper officer of the University such real estate or equipment has become obsolete, unsuitable or unnecessary. The University further covenants that it will not commit or suffer any stripping or waste of the University Premises.

Section 8.4. Compliance with Laws. The University covenants that all actions heretofore and hereafter taken by the University to acquire and carry out the acquisition, construction, and installation of the Project Facilities, including the making of contracts, have been and will be in compliance in all material respects with all pertinent laws, ordinances, rules, regulations and orders applicable to the University. In connection with the operation, maintenance, repair and replacement of the University Premises, the University covenants that it shall comply in all material respects with all applicable ordinances, laws, rules, regulations and orders of the government of the United States of America, the State, the municipalities in which the University Premises or any part thereof are located, and any requirement of any board of fire insurance underwriters having jurisdiction or of any insurance company writing insurance on the University Premises. The University further covenants and represents that to the best of its knowledge the University Premises, including the Project Facilities, are in compliance in all material respects with all applicable zoning, subdivision, building, land use, environmental and all other laws, ordinances, rules and regulations. The University covenants that it shall not take any action or request the Trustee to execute any release which would cause the University Premises to be in material violation of any such law or ordinance or such that a conveyance of the University Premises or of any portion thereof would create a material violation of such laws and ordinances.

Section 8.5. Preservation of Status, Licensure, and Corporate Status; Merger and Consolidation. The University covenants (i) to preserve and to maintain its existence as a nonprofit corporation under the laws of the State, and to preserve its Articles of Incorporation and its Bylaws (except that appropriate amendments may be made thereto in connection with any transactions contemplated by this Section) so that it will be, to the extent permitted by law at any given time, free from Federal taxes to the extent such action is required to preserve the tax-exempt status of the Project Bonds in the opinion of Bond Counsel and (ii) to preserve and maintain its authority to operate the University Premises as an institution of higher education in the State; provided, however, that nothing herein shall preclude the University, as a nonprofit corporation, from engaging in activities unrelated to its eleemosynary purpose or from earning income from such activities so long as such activity or income does not cause interest on the Project Bonds to be included in the gross income of the holders for Federal income tax purposes. The University covenants that during the term of this Loan Agreement it shall not initiate any proceedings or take any action whatsoever to dissolve or liquidate or to terminate its existence as a corporation except to consolidate or to merge with another entity as provided herein. The University covenants that during the term of this Loan Agreement it shall not consolidate with, transfer all or any significant part of its assets to, or merge with or into any other entity, unless all of the following conditions shall be met:

A. The successor, transferee or surviving entity shall be a nonprofit corporation, or similar entity, organized under the laws of the United States, or any state, district or territory of the United States;

B. The successor, transferee or surviving entity (if not the University) agrees expressly, in writing, to assume the obligations of the University under this Loan Agreement and the other University Agreements to the same extent as if such successor, transferee or surviving entity had been the original borrower under this Loan Agreement;

C. Immediately after such consolidation, transfer or merger, the University, or such successor, transferee or surviving entity, shall not be in default in the performance or observance of any duties, obligations or covenants of the University under this Loan Agreement or the other University Agreements;

D. The Trustee shall have received opinions of Bond Counsel and the University's Counsel, respectively, not unsatisfactory to the Trustee that (i) the exclusion of interest on the Project Bonds from the gross income of the holder for Federal income tax purposes will not be affected by such consolidation, transfer or merger; (ii) the obligations assumed by any successor transferee or surviving entity pursuant to this Section are legal, valid, binding and enforceable, subject as to enforceability to bankruptcy, insolvency, moratorium, or other laws or equitable principles affecting creditors' rights generally; and (iii) all of the conditions required for such consolidation, transfer or merger set forth in this Section 8.5 have been satisfied.

Section 8.6. Tax Exemption of University and Project Bonds.

A. The University represents and warrants that, as of the date of this Loan Agreement:

(1) it has received a determination of the Internal Revenue Service that it is an organization described in Section 501(c)(3) of the Code and is not a private foundation as defined in Section 509 of the Code, and such determination has not been revoked and is not subject to any challenge;

(2) it is not in violation of any conditions imposed by applicable law and regulations as a condition to its being so described; and

(3) it is exempt from Federal income tax under Section 501(a) of the Code.

B. The University covenants that, throughout the term of this Loan Agreement:

(1) it will take whatever actions are necessary to continue to be organized and operated in a manner which will preserve and maintain such Federal income tax status of the University;

(2) it will not perform any acts nor enter into any agreements which shall cause any revocation or adverse modification of such Federal income tax status of the University;

(3) it will not carry on or permit to be carried on in any property financed or refinanced with proceeds of the Project Bonds (or with Bond proceeds or the proceeds of any loan refinanced with the Bond proceeds) any trade or business the conduct of which (a) is not substantially related (aside from the need of the University for income or funds or the use it makes of the profits derived) to the exercise or performance by the University of purposes or functions described in Section 501(c)(3) of the Code, and (b) would cause the interest on the Project Bonds to be includable in gross income for Federal income tax purposes; and

(4) it will not take any action or permit any action to be taken on its behalf, or cause or permit any circumstances within its control to arise or continue, if such action or circumstances would cause the interest on the Project Bonds to be includable in gross income for Federal income tax purposes.

Section 8.7. Inspection. The University covenants that the Trustee, by its duly authorized representatives, upon reasonable notice and at reasonable times, may inspect all or any part of the University Premises and any and all books and records of the University.

Section 8.8. Additional Information. The University agrees, whenever requested by the Issuer, to provide and certify or cause to be provided and certified such information concerning the Project, the University, the University Premises, the finances of the University, and other matters as the Trustee considers necessary or advisable.

Section 8.9. Certain Notices to Be Given. The University covenants and agrees that it will give to the Trustee, as promptly as practicable but in no event later than five (5) business days after the same shall first become known to the University, notice of the occurrence of any Event of Default or of any event which, with the passage of time or the giving of notice, or both, would constitute an Event of Default.

Section 8.10. Project Bonds Not to Become Arbitrage Bonds. As provided in the Indenture and the Tax Compliance Agreement, the Trustee will invest moneys held by the Trustee as directed by the University. The Issuer and the University hereby covenant with each other and with the holders of the Project Bonds that, notwithstanding any other provisions of this Loan Agreement or any other instrument, they will neither make nor instruct the Trustee to make any investment or other use of the proceeds of the Project Bonds, or take or omit to take any other action which would cause the Project Bonds to be arbitrage bonds under Section 148 of the Code and the regulations thereunder, and that they will comply with the requirements of the Code and applicable regulations throughout the term of the Project Bonds so that the interest on the Project Bonds shall be excluded from gross income of the holders of the Project Bonds for federal income tax purposes.

Section 8.11. Environmental Matters. The University covenants to comply in all material respects (and to use its best efforts to cause all occupants of the University Premises to

comply) in all material respects with all federal, state and local laws, ordinances, rules and regulations pertaining to the environment and human health and safety (collectively, “Environmental Laws”), including, without limitation, those regulating hazardous or toxic wastes and substances, asbestos, or petroleum products or underground storage (as such phrases may be defined in any Environmental Law), and to give prompt written notice to the Trustee and the Issuer of any material violation or alleged material violation of any Environmental Law with respect to the University Premises. The University represents that it is not aware of any existing violation of any Environmental Law by the University or the University Premises, including the Project Facilities.

Section 8.12. Accreditation. At all times during the term hereof the University shall maintain its accreditation by at least one nationally recognized accreditation agency as a post-secondary liberal arts teaching institution.

Section 8.13. Payment of Taxes and Other Claims. The University will pay or discharge, when due, (a) all taxes, assessments and governmental charges levied or imposed upon it or upon its income or profits, upon any properties belonging to it (including the Project), prior to the date on which penalties attach thereto, (b) all federal, state and local taxes required to be withheld by it, and (c) all lawful claims for labor, materials and supplies which, if unpaid, might by law become a lien upon any University Premises, or any part thereof; provided that the University shall not be required to pay any tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings unless the contest would adversely affect the rights or interests of the Issuer or the Trustee. The University will pay, as the same respectively come due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or with respect to the Project Facilities, as well as all gas, water, steam, electricity, heat, power, telephone, utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project Facilities. The University shall not be required, so long as the University is contesting, in good faith, and at its cost and expense, in its own name and behalf, the amount or validity thereof, in an appropriate manner or by appropriate proceedings which shall operate during the pendency thereof.

Section 8.14. Change in Name or Corporate Structure; Sale of Assets. The University shall provide written notice to the Trustee and Issuer of any change or proposed change in its name, corporate structure, jurisdiction of organization or change or proposed change in the location of the Project Facilities. Such notice shall be provided 10 days in advance of the date that such change or proposed change is planned to take effect. The University will not sell, lease, assign, transfer or otherwise dispose of all or a substantial part of its assets or of any of the Project Facilities or any interest therein (whether in one transaction or in a series of transactions).

Section 8.15. Rate Covenant. The University will charge and maintain tuition, fees and other charges sufficient to provide Net Revenues Available for Debt Service at least equal to 1.10x Annual Debt Service on all long-term indebtedness.

Section 8.16. Additional Indebtedness. Additional long-term indebtedness, including promissory notes securing Additional Bonds, may be issued if the University can

demonstrate that for the two most recent fiscal years for which an audit is available, it had Net Revenues Available for Debt Service at least equal to a ratio of 1.10x Maximum Annual Debt Service on all long-term indebtedness to be outstanding after the issuance of such additional indebtedness. Notwithstanding the foregoing, refunding bonds may be issued at any time, provided that Maximum Annual Debt Service after such refunding does not exceed 110% of Maximum Annual Debt Service prior to such refunding..

Section 8.17. Negative Pledge. The University will not grant any liens or mortgages on its campus located in Louisville, Kentucky and any of its other property (real and personal, including endowment funds and after acquired property) except for Permitted Encumbrances.

ARTICLE 9. EVENTS OF DEFAULT AND REMEDIES

Section 9.1. Events of Default. The occurrence of any of the following events shall constitute an Event of Default hereunder:

A. the University fails to make any payment required by Article 5 hereof or by the Indenture, which payment shall be required for payment of the principal or Redemption Price of, or interest on, the Project Bonds, when the same shall become due and payable, with or without notice to the University;

B. any representation of the University herein or in any other University Agreement was untrue as of the effective date thereof;

C. any violation, breach, failure or default under or with respect to any financial covenant contained in Article 7 hereof which is not cured within thirty (30) days;

D. any violation, breach, failure or default under or with respect to any of the covenants or provisions of Sections 8.5, 8.6 or 8.10 hereof;

E. an Event of Default occurs under the terms of the Indenture which causes all the Project Bonds to be due and payable;

F. an Event of Default occurs under any University Agreement which is not cured within thirty (30) days;

G. the University proposes or makes an assignment for the benefit of creditors or a composition agreement with all or a material part of its creditors, or a trustee, receiver, executor, conservator, liquidator, sequestrator or other judicial representative, similar or dissimilar, is appointed for the University or any of its assets or revenues, or there is commenced any proceeding in liquidation, bankruptcy, reorganization, arrangement of debts, debtor rehabilitation, creditor adjustment, foreclosure or insolvency, local, state or federal, by or against the University and if such is not commenced by the University it is not vacated, dismissed or stayed on appeal within sixty (60) days; or

H. the University fails to perform any of its other covenants herein or in any of the other University Agreements and such failure continues for thirty (30) days after the Trustee gives the University notice thereof or the University gives notice thereof under Section 8.9 hereof, whichever is earlier; provided, however, that if such performance requires work to be done, actions to be taken, or conditions to be remedied, which by their nature cannot reasonably be done, taken or remedied, as the case may be, within such 30-day period, no Event of Default shall be deemed to have occurred or to exist if, and so long as, the University shall commence such performance within such 30-day period and shall diligently and continuously prosecute the same to completion; provided that such cure period shall not be extended for more than 90 days after such notice in any event.

Section 9.2. [Reserved].

Section 9.3. Appointment of Receiver. In case of any proceeding of the Trustee wherein appointment of a receiver may be permissible, the Trustee, as a matter of right and immediately upon institution of each such proceeding, without notice to the University, shall be entitled to appointment of a receiver of the University Premises with such powers as the court making such appointment can confer; subject, however, to any limitations and restrictions of the Act.

Section 9.4. Additional Remedies. If any Event of Default shall happen, then and at any time thereafter while said Event of Default is continuing, the Trustee may take any action at law or in equity to collect amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of the University under this Loan Agreement and/or any of the other University Agreements, or any other action provided for in the Indenture. The Trustee may exercise any one or more of the remedies available to it separately or concurrently and as often as required to enforce the University's obligations. In addition to the other remedies provided herein, the Trustee shall be entitled to the restraint by injunction of the violation, or attempted or threatened violation by the University, of any of the covenants, conditions or provisions hereof or any other University Agreement, or to a decree compelling specific performance of any of such covenants, conditions or provisions.

Section 9.5. Waivers. No failure by either party to insist upon strict performance hereof or to exercise any remedy upon the occurrence of an Event of Default shall constitute a waiver of such default, or a waiver or modification of any provision hereof.

Section 9.6. Remedies Not Exclusive. All rights and remedies herein given are in addition to any and all rights and remedies that the Issuer or the Trustee may have or be given by reason of any law, statute, ordinance or otherwise.

Section 9.7. Expenses. If the University shall default under any of the provisions of this Loan Agreement and the Issuer or the Trustee shall employ attorneys or incur other expenses for the collection of amounts payable hereunder or for the enforcement of performance or observance of any obligation or agreement on the part of the University contained in this Loan Agreement or any of the other University Agreements, the University will on demand therefor reimburse the Issuer or the Trustee, as the case may be, for the reasonable fees of such attorneys and such other reasonable expenses so incurred, with interest thereon at

the Trustee's announced prime rate per annum then in effect from the date of payment thereof by the Issuer or Trustee, as applicable, until paid in full.

ARTICLE 10. MISCELLANEOUS

Section 10.1. Consent to Indenture. The University acknowledges that it has received an executed copy of the Indenture, and that it is familiar with its provisions, and agrees to be bound to the fullest extent permitted by law to all provisions thereof directly or indirectly relating to it and further agrees that it will take all such actions as are required or contemplated of it under the Indenture to preserve and protect the rights of the Trustee and of the Bondholders thereunder and that it will not take any action which would cause a default thereunder or jeopardize such rights. It is agreed by the University and the Issuer that all redemption of Project Bonds prior to maturity shall be effected as provided in the Indenture.

The University hereby assumes and agrees to perform all of the covenants and other obligations of the Issuer under the Indenture, excepting only any approvals, consents or certificates permitted or required to be given by the Issuer thereunder, and those covenants or obligations the performance of which is within the power of the Issuer but not the University to perform, including but not limited to those covenants and conditions contained in Section 2.2 (relating to the execution of the Project Bonds), Section 3.1 (relating to the application of the proceeds of the Project Bonds), Section 8.2 (requiring the Issuer to maintain its corporate existence so long as permitted by applicable law), and Section 8.6 (prohibiting the Issuer from taking any action which would impair the rights of the Bondholders and requiring it to pay over to the Trustee money received by it in respect of the University Premises which are not otherwise assigned to the Trustee). However, nothing contained herein shall prevent the Issuer from choosing from time to time, in its discretion, to perform any of such covenants or other obligations.

Section 10.2. Payment by Issuer of University Obligations. If the University at any time fails to take out, pay for, maintain or deliver any of the insurance policies provided for in Article 6, or upon the occurrence of any other Event of Default, then the Trustee as assignee of the Issuer hereunder may, but shall not be obligated so to do, and without further notice to or demand upon the University and without waiving or releasing the University from any of its obligations in this Loan Agreement contained, (a) take out, pay for and maintain any of the insurance policies provided for in Article 6, or (b) make any other payment or perform any other act on the University's part to be made or performed as in this Loan Agreement provided. Any sums so paid by the Trustee shall be payable to the Trustee by the University, together with interest thereon at the prime rate of interest announced by the Trustee from time to time during the period from the date such sums are paid by the Trustee to the date of payment thereof by the University, on demand, or at the option of the Trustee may be added to any payment due or thereafter becoming due under this Loan Agreement, and the University covenants to pay any such sums.

Section 10.3. Severability. If any term or provision hereof or the application thereof for any reason or circumstances shall to any extent be held to be invalid or unenforceable, the remaining provisions or the application of such term or provision to persons other than those

as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision hereof shall be valid and enforceable to the fullest extent permitted by law.

Section 10.4. No Personal Recourse, Indemnification of Issuer and Trustee. In the exercise of the power of the Issuer and its elected officials, officers, employees and agents hereunder including (without limiting the foregoing) the application of moneys and the investment of funds or in the event of default by the University, neither the Issuer, the State or any agency or political subdivision of the State, nor, their respective elected officials, officers, employees, and agents (each an “Indemnified Party” and collectively the “Indemnified Parties”) shall be accountable to the University for any action taken or omitted by such Indemnified Party in good faith and believed by such Indemnified Party to be authorized or within the discretion of rights or powers conferred. The Indemnified Parties shall be protected in their acting upon any paper or document believed by them to be genuine, and they may conclusively rely upon the advice of Counsel and may (but need not) require further evidence of any fact or matter before taking any action. No recourse shall be had by the University for any claims based hereon or on the Indenture against any elected official, member, director, officer, employee or agent of the Issuer or the State or any agency or political subdivision thereof alleging personal liability on the part of such person. The University shall have no recourse against any assets of the Issuer whether now or hereafter owned by it.

The University will indemnify and hold harmless the Indemnified Parties against any and all claims, losses, damages or liabilities (including reasonable attorneys’ fees), joint or several, to which any Indemnified Party may become subject, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of the Project, the Indenture, this Loan Agreement, or the University Premises or are based upon any other alleged act or omission in connection with the issuance of the Project Bonds by the Issuer under the Indenture unless the losses, damages or liabilities arise from an adjudication of bad faith or fraud or deceit of an Indemnified Party. In the event any claim is made or action brought against an Indemnified Party, the Indemnified Party may direct the University to assume the defense of the claim and any action brought thereon and pay all reasonable expenses incurred therein. The defense of any such claim shall include the taking of all actions reasonably necessary or appropriate thereto.

The University hereby agrees to indemnify the Trustee, and each director, officer, and employee of the Trustee, and hold it and them harmless from and against any and all claims, liabilities, losses, actions, suits or proceedings, at law or in equity, which it or they may incur or with which it or they may be threatened by reason of it acting as Trustee under the Indenture and with respect to this Loan Agreement, any of the other University Agreements, and the Project Bonds, except in the case of the Trustee’s own willful misconduct or gross negligence; and in connection therewith to indemnify the Trustee and each director, officer and employee of the Trustee against any and all expenses, including reasonable attorney’s fees and the cost of defending any action, suit or proceeding or resisting any claim. There shall be no personal liability of any director, officer, or employee of the University in executing this Loan Agreement or any of the other University Agreements or in carrying out any provision hereof.

The obligations of the University under this Section shall survive the termination of this Loan Agreement.

Section 10.5. Reference to Statutes or Regulations. A reference herein to a statute or to a regulation issued by a governmental agency includes the statute or regulation in force as of the date hereof, together with all amendments and supplements thereto and any statute or regulation substituted for such statute or regulation, unless the specific language or the context of the reference herein clearly includes only the statute or regulation in force as of the date hereof.

A reference herein to a governmental agency, department, board, commission or other public body or to a public officer includes an entity or officer which or who succeeds to substantially the same functions as those performed by such public body or officer as of the date hereof, unless the specific language or the context of the reference herein clearly includes only such public body or public officer as of the date hereof.

Section 10.6. Governing Law. The laws of the State shall govern the construction hereof.

Section 10.7. Supplements and Amendments to Loan Agreement. The parties hereto from time to time may enter into any written amendments hereto (which thereafter shall form a part hereof) as shall not adversely affect the rights of or the security of the holders of the Project Bonds only for the following purposes:

A. to grant to or confer upon the Trustee any additional rights, remedies, powers, authority or security that lawfully may be granted to or conferred upon it; or

B. to reflect a change in applicable law including, but not limited to, any change in the Code;

C. in connection with the issuance of Additional Bonds as and to the extent expressly permitted under the Indenture; or

D. to provide terms not inconsistent with the Indenture or this Loan Agreement; provided, however, that this Loan Agreement as so amended or supplemented shall provide at least the same security for holders of Project Bonds issued under the Indenture as the Loan Agreement in the form originally executed and delivered.

All other amendments must be approved by the Trustee and, if required by the Indenture, the holders of the Project Bonds, in the same manner and to the same extent as is set forth in Article 13 of the Indenture. In executing any amendment to this Loan Agreement or any of the other University Agreements, the Trustee shall be fully protected by a Favorable Opinion of Bond Counsel and an opinion of Counsel (who may be such Bond Counsel) that such amendment is permitted and has been duly authorized and that all things necessary to make it a valid and binding agreement have been done.

Section 10.8. Notices. All notices required or authorized to be given by the University, the Issuer or the Trustee pursuant to this Loan Agreement or any of the other University Agreements shall be effective if in writing and delivered or sent by registered or certified mail, postage and other delivery charges prepaid, or by telecopy, or reputable courier service to the parties at their respective following addresses:

If to the University, to:

Bellarmino University
2001 Newburg Road
Louisville, Kentucky 40205
Attention: Vice President for Administration and Finance

If to the Issuer, to:

Louisville/Jefferson County Metro Government
527 W. Jefferson Street
Louisville, Kentucky 40202
Attention: Mayor

If to the Trustee, to:

U.S. Bank National Association
One Financial Square
Louisville, Kentucky 40202
Attention: Corporate Trust Services

or to other valid U.S. Postal Service address as may from time to time be furnished by any party to the other parties in the manner provided herein. Each such notice shall be effective (i) at 5:00 P.M. (Eastern Time) on the second business day after deposit in the U.S. certified or registered mail, (ii) 3 hours after transmittal by telecopy with evidence of transmission, or (iii) at 2:00 P.M. (Eastern Time) on the next business day after deposit with a reputable overnight courier service for next day delivery.

The University, the Issuer, and the Trustee shall each send in the same manner a duplicate copy or executed copy of each notice, certificate, correspondence or other material or data delivered hereunder to each of the others.

Section 10.9. Counterparts. This Loan Agreement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original, and such counterparts shall constitute but one and the same instrument.

Section 10.10. Headings. All headings herein are for convenience of reference only and shall not affect the interpretation of this Loan Agreement.

Section 10.11. Payment on Non-Business Days. Whenever any payment to be made hereunder shall be stated to be due on a day that is a Saturday or Sunday or a day on which banks are generally not open for business in Louisville, Kentucky, that payment may be made on the next succeeding day that is not a Saturday or Sunday or that is a day on which banks are generally open for business in Louisville, Kentucky, and such extension of time shall in such case be included in the computation of interest or the fees hereunder, as the case may be.

Section 10.12. Further Assurance and Corrective Instruments. The University and the Trustee and the Issuer will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, any further acts, instruments, conveyances, transfers and assurances that Trustee reasonably deems necessary or advisable for the implementation, correction, confirmation, recording, filing or perfection of the University Documents and any rights of the Trustee thereunder.

Section 10.13. Binding Effect; Time of the Essence. This Agreement shall inure to the benefit of and shall be binding upon the Trustee, the Issuer, and the University and their respective successors and assigns, but may not be assigned by the University except as expressly permitted herein. Time is of the essence of all terms, provisions and covenants herein.

Section 10.14. Entire Agreement. This Loan Agreement, the other University Agreements, the Indenture, the Project Bonds, and the exhibits hereto and thereto constitute the entire agreement among the Trustee, the Issuer and the University with respect to the subject matter thereof. Neither this Agreement nor any of such other documents may be amended or modified or waived in any respect except by written instrument signed by or on behalf of the party against which enforcement thereof is sought.

IN WITNESS WHEREOF, Louisville/Jefferson County Metro Government has caused this Loan Agreement to be executed in its name and in its behalf by its Mayor and attested by its Metro Council Clerk, and Bellarmine University Incorporated has caused this Loan Agreement to be executed in its name and in its behalf by its Vice President of Administration and Finance, all as of the day and year first above written.

LOUISVILLE/JEFFERSON COUNTY
METRO GOVERNMENT

By: _____
Jerry Abramson, Mayor

Attest:

By: _____
Kathleen J. Herron, Metro Council Clerk

APPROVED AS TO FORM AND LEGALITY:
Michael J. O'Connell, Jefferson County Attorney

By: _____
James T. Carey, an Assistant County Attorney
And Attorney for Louisville/Jefferson County
Metropolitan Government

BELLARMINE UNIVERSITY
INCORPORATED

By: _____
Joseph J. McGowan, President

ASSIGNMENT

KNOW ALL MEN BY THESE PRESENTS that Louisville/Jefferson County Metro Government (the "Issuer"), pursuant to an ordinance of its Metro Council heretofore duly adopted, does hereby sell, assign, transfer, and set over to U.S. Bank National Association, having a corporate trust office in Louisville, Kentucky, as trustee (the "Trustee") under the Trust Indenture dated as of October 1, 2009 (the "Indenture"), between the Issuer and the Trustee, all the right, title and interest of the Issuer in and to the Loan Agreement dated as of October 1, 2009 (the "Loan Agreement") between the Issuer and Bellarmine University Incorporated, as well as all payments payable or which may become payable thereunder and all security therefor (except for amounts constituting Unassigned Rights as defined in the Loan Agreement), the same to be held in trust and applied by the Trustee as provided in the Indenture; and the Issuer does hereby constitute and appoint the Trustee its true and lawful attorney for it and in its name to collect and receive payment of any and all such payments and to give good and sufficient receipts therefor, hereby ratifying and confirming all that the attorney may do in the premises. The Trustee may, but, except as otherwise provided in the Indenture, shall not be required to, institute any proceedings or take any action in its name or in the name of the Issuer to enforce payment or collection of any or all of such payments.

Notwithstanding such assignment and transfer, so long as the Issuer shall not be in default under the Indenture:

- (1) The Issuer shall have the right and duty to give all approvals and consents permitted or required of the Issuer under the Loan Agreement;
- (2) The Issuer shall have the right to execute supplements and amendments to the Loan Agreement to the extent and in the manner permitted by the Loan Agreement and the Indenture; and
- (3) There shall be no responsibility on the part of the Trustee for duties or responsibilities of the Issuer contained in the Loan Agreement and in any supplements or amendments thereto.

IN WITNESS WHEREOF, Louisville/Jefferson County Metro Government has caused this Assignment to be executed in its name and in its behalf by its Mayor and attested by its Metro Council Clerk, all as of the day and year first above written.

LOUISVILLE/JEFFERSON COUNTY
METRO GOVERNMENT

By: _____
Jerry Abramson, Mayor

Attest:

By: _____
Kathleen J. Herron, Metro Council Clerk

APPROVED AS TO FORM AND LEGALITY:
Michael J. O'Connell, Jefferson County Attorney

By: _____
James T. Carey, an Assistant County Attorney
And Attorney for Louisville/Jefferson County
Metropolitan Government